

United States District Court United States District Court

For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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IN RE: MDL Docket No 06-1791 VRW  
14 NATIONAL SECURITY AGENCY  
TELECOMMUNICATIONS RECORDS  
15 LITIGATION ORDER

16 This Document Relates To:  
17  
18 ALL CASES

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20 Pursuant to the court's practice and procedure order (Doc  
21 #15), IT IS HEREBY ORDERED that:

22 (1) The court will hold an initial case management conference  
23 on November 14, 2006, at 2:30 pm.  
24 (a) To minimize the costs and facilitate a manageable  
25 conference, parties with similar interests may agree  
on a single attorney to act on their joint behalf at  
the conference. A party will not, by so designating  
an attorney to represent its interests on November  
14, be precluded from other representation during  
the litigation; and attendance at the conference  
will not waive objections to jurisdiction, venue or  
service.

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1 (b) Persons who are not named as parties in this  
2 litigation but may later be joined as parties or are  
3 parties in related litigation pending in other  
courts are invited to attend in person or by  
counsel.

4 (2) The case management conference will be held for the  
5 purposes specified in FRCP 16(a), 16(b), 16(c) and 26(f)  
and subject to the sanctions prescribed in Rule 16(f).  
Other issues the court intends to address include the  
6 following:

7 (a) Does the government intend to assert the state  
8 secrets privilege in all of the cases transferred  
pursuant to MDL 1791?

9 (b) Do plaintiffs intend to file consolidated  
10 complaints?

11 (c) What issues in these cases may be resolved without  
12 implicating the state secrets privilege, if  
asserted?

13 (d) What discovery may proceed and how should it be  
coordinated?

14 (e) What other issues should be addressed to facilitate  
15 the just and timely resolution of this litigation?

16 (3) Preparations for the conference shall include the  
following:

17 (a) Counsel are expected to familiarize themselves with  
18 the *Manual for Complex Litigation, Fourth* and be  
19 prepared at the conference to suggest procedures  
that will facilitate the just, speedy and  
inexpensive resolution of this litigation.

20 (b) Before the conference, counsel shall confer and seek  
21 consensus to the extent possible concerning the  
22 items on the agenda, including a proposed discovery  
plan under Rule 26(f) and a suggested schedule under  
Rule 16(b) for joinder of parties, amendment of  
23 pleadings and any pretrial motions.

24 (c) Counsel shall submit to the court by November 7,  
25 2006, a brief written statement indicating their  
preliminary understanding of the facts involved in  
the litigation and the critical factual and legal  
issues.

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(d) Counsel's statement shall also apprise the court regarding the status of cases under interlocutory appeal to the Ninth Circuit and cases in which a party has opposed transfer for consolidation pursuant to MDL 1791.

(4) This order shall also apply to related cases later filed in, removed to or transferred pursuant to MDL 1791.

(5) The court intends to consider appointments of:

(a) lead counsel or a steering committee for representation of parties with similar interests; and

(b) a technical advisor to assist the court in assessing evidence related to national security.

The parties should be prepared to discuss the feasibility and appropriateness of such appointments.

IT IS SO ORDERED.

W. J. Walker

**VAUGHN R WALKER**

United States District Chief Judge